

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

2013 MARLEN AYALA PROTECTION
TRUST & CENTRO COMMERCIAL DE,

Plaintiff,

Case No. 3:24-cv-196

vs.

GRANGE INSURANCE COMPANY,
Defendant.

District Judge Michael J. Newman
Magistrate Judge Peter B. Silvain, Jr.

**ORDER: (1) REMANDING THIS CASE TO THE CIVIL DIVISION OF THE COURT
OF COMMON PLEAS FOR MONTGOMERY COUNTY, OHIO; AND (2)
TERMINATING THE CASE ON THE COURT'S DOCKET**

Plaintiff, through counsel, initiated this breach of contract case in the Civil Division of the Court of Common Pleas for Montgomery County, Ohio. Doc. No. 1 at PageID 1. Defendant, an Ohio-based insurance company, removed the case to this Court, asserting diversity jurisdiction under 28 U.S.C. § 1332(a). *Id.* at PageID 1-2; *see* 28 U.S.C. § 1441(a). The case is presently before the Court upon Defendant's failure to respond to the Court's Order to show cause why this case should not be remanded back to state court. Doc. No. 8.

The Court has a duty to review *sua sponte* whether subject matter jurisdiction exists in each case before it. *See Answers in Genesis of Ky., Inc. v. Creation Ministries Int'l, Ltd.*, 556 F.3d 459, 465 (6th Cir. 2009) (holding that "federal courts have a duty to consider their subject matter jurisdiction in regard to every case and may raise the issue *sua sponte*"). "A civil action otherwise removable solely on the basis of [diversity jurisdiction] may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought." 28 U.S.C. § 1441(b)(2).

Plaintiff, an LLC, is a California corporation. Doc. No. 9. According to the notice of removal, Defendant Grange Insurance Company is a citizen of Ohio. *See* Doc. No. 1 at PageID 1. This renders the case non-removable under § 1441(b)(2). *E.g., Chase Manhattan Mortg. Corp. v. Smith*, 507 F.3d 910, 914 (6th Cir. 2007) (“the Smiths [defendants] were citizens of Ohio and thus barred from invoking removal jurisdiction on the basis of diversity”).

The Court therefore: (1) **REMANDS** this case to the Civil Division of the Court of Common Pleas for Montgomery County, Ohio due to lack of subject matter jurisdiction; and (2) **TERMINATES** the case on the docket.

IT IS SO ORDERED.

November 18, 2024

s/Michael J. Newman

Hon. Michael J. Newman
United States District Judge